

90th Legislative Session – 2015

Committee: House Taxation

Thursday, March 05, 2015

P - Present
E - Excused
A - Absent

Roll Call

P Bartling
P Beal
P Duvall
P Haggar (Don)
P Killer
P Kirschman
P Latterell
P May
P Novstrup (Al)
P Rasmussen
P Russell
P Wiik
P Willadsen
P Rozum, Vice-Chair
P Solum, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Roger Solum, Chair.

MOTION: TO APPROVE THE MINUTES OF MARCH 3, 2015

Moved by: Haggar (Don)
Second by: Rozum
Action: Prevailed by voice vote.

SB 189: provide a tax credit to insurance companies that contribute to an organization providing educational scholarships to certain students and instructional supply grants to certain teachers and parents.

Presented by: Representative Brian Gosch

Proponents: Senator Phyllis Heineman (Handouts: #1)
Darlene Braun, SD Christian School Association
Senator Bill Van Gerpen
Representative Lana Greenfield
Terri Jorgenson, Concerned Women For America Legislative Action Committee
Matt McCaulley, Self, Sioux Falls (Handouts: #2)
Dale Bartscher, Family Heritage Alliance
Travis Benson, Catholic Diocese Of Sioux Falls

Opponents: Liza Clark, Governor's Office
Jim Terwilliger, Bureau of Finance & Management
Wade Pogeny, Association of School Boards, SD
Wade Pogany, Self, Pierre
Robert Monson, School Administrators Of South Dakota
Mary McCorkle, SD Education Association
Paul Dennert, South Dakota Farmer's Union
Paul Dennert, Self. Columbia, SD
Dianna Miller, Large School Group

MOTION: DO PASS SB 189

Moved by: Novstrup (Al)

Second by: Haggar (Don)

Action: Failed by roll call vote. (7-8-0-0)

Voting Yes: Beal, Haggar (Don), Latterell, May, Novstrup (Al), Russell, Wiik

Voting No: Bartling, Duvall, Killer, Kirschman, Rasmussen, Willadsen, Rozum, Solum

MOTION: DEFER SB 189 TO THE 41ST LEGISLATIVE DAY

Moved by: Willadsen

Second by: Duvall

Action: Was not acted on.

MOTION: WITHOUT RECOMMENDATION SB 189

Moved by: Russell

Second by: Haggar (Don)

Action: Prevailed by roll call vote. (8-7-0-0)

Voting Yes: Beal, Haggar (Don), Latterell, May, Novstrup (Al), Rasmussen, Russell, Wiik

Voting No: Bartling, Duvall, Killer, Kirschman, Willadsen, Rozum, Solum

SB 100: create a leased residential property classification.

Presented by: Senator Deb Peters

Proponents: Representative Don Haggar

Matt Peterson, South Dakota Multi-Housing Association

Dean Krogman, South Dakota Multi-Housing Association

Greg Card, Self, Vermillion

Margo Northrup, South Dakota Manufactured Housing Association

Justin Smith, Sioux Falls Area Chamber Of Commerce

Tim Dougherty, Home Builders Association Of The Sioux Empire

Opponents: David Owen, South Dakota Chamber Of Commerce & Industry

Mike Houdyshell, Department of Revenue (Handouts: #3)

Paul Dennert, Self. Columbia, SD

MOTION: AMEND SB 100

100fd

On page 1, line 6, of the Senate engrossed bill, after "any" insert "real estate or".

On page 1, line 8, after "structure" insert "or real estate".

Moved by: Rozum

Second by: Duvall

Action: Prevailed by voice vote.

MOTION: DO PASS SB 100 AS AMENDED

Moved by: Rozum

Second by: Latterell

Action: Was not acted on.

MOTION: DEFER SB 100 TO THE 41ST LEGISLATIVE DAY

Moved by: Russell

Second by: Rasmussen

Action: Failed by roll call vote. (5-10-0-0)

Voting Yes: Bartling, May, Rasmussen, Russell, Wiik

Voting No: Beal, Duvall, Hagggar (Don), Killer, Kirschman, Latterell, Novstrup (Al), Willadsen, Rozum, Solum

THE MOTION TO DO PASS SB 100 AS AMENDED

Moved by: Rozum
Second by: Latterell
Action: PREVAILED BY ROLL CALL VOTE. (10-5-0-0)

Voting Yes: Beal, Duvall, Hagggar (Don), Killer, Kirschman, Latterell, Novstrup (Al), Willadsen, Rozum, Solum

Voting No: Bartling, May, Rasmussen, Russell, Wiik

OVERVIEW: Gavel was passed to Representative Rozum, Vice Chair

SB 180: revise certain provisions regarding the production tax for wind energy facilities.

Presented by: Representative Roger Solum
Proponents: Bill Van Camp, Nextera Energy Resources
Adam Sokolske, Iberdrola Renewables
Heath Johnson, Self, Dakota Plains Energy, Aberdeen
Darla Pollman Rogers, South Dakota Rural Electric Association
Scott Kuhlke, Own Energy
Dick Howard, South Dakota Association of Towns and Townships

MOTION: AMEND SB 180

180fb

On the Senate Commerce and Energy Committee engrossed bill, delete everything after the enacting clause and insert:

" Section 1. That § 10-35-17 be amended to read as follows:

10-35-17. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time on or after July 1, 2007, and prior to April 1, 2015, shall pay the alternative annual taxes provided in §§ 10-35-18 and 10-35-19. A wind farm that produces power for the first time on or after April 1, 2015, shall pay the alternative annual taxes provided in § 10-35-18 and section 3 of this Act. The alternative taxes imposed by §§ 10-35-18~~and~~, 10-35-19, and section 3 of this Act, are in lieu of all taxes levied by the state, counties, municipalities, school districts, or other political subdivisions of the state on the

personal and real property of the company which is used or intended for use as a wind farm, but are not in lieu of the retail sales and service tax imposed by chapter 10-45, the use tax imposed by chapter 10-46, or any other tax.

Section 2. That § 10-35-19 be amended to read as follows:

10-35-19. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time on or after July 1, 2007, and prior to April 1, 2015, shall pay an annual tax of ~~two percent of the gross receipts of the wind farm. For purposes of this section, the gross receipts of \$0.00065 per kilowatt hour of electricity produced by the wind farm is its production of electricity in kilowatt hours multiplied by the South Dakota electricity base rate of \$0.0475 per kilowatt hour in 2008, with the electricity base rate of \$0.0475 per kilowatt hour increasing by 2.5 percent on an annual basis thereafter, as determined by the secretary.~~ The owner of a wind farm subject to tax ~~under this section~~ shall file a report with the secretary detailing the amount of electricity in kilowatt-hours that was produced by the wind farm for the previous calendar year. The secretary shall prescribe the form of the report. The tax for the ~~gross receipts generated~~ electricity produced in a calendar year shall become due and be payable to the secretary on the first day of February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-35-22, inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

Section 3. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time on or after April 1, 2015, shall pay an annual tax of \$.00045 per kilowatt hour of electricity produced by the wind farm. The owner of a wind farm subject to the tax shall file a report with the secretary detailing the amount of electricity in kilowatt-hours that was produced by the wind farm for the previous calendar year. The secretary shall prescribe the form of the report. The tax for the electricity produced in a calendar year shall become due and be payable to the secretary on the first day of February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-35-22, inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

Section 4. That § 10-35-22 be repealed.

~~—10-35-22. Any company requiring transmission lines or wind farm collector systems or both in South Dakota for a wind farm or a power generation facility as described in § 10-35-1.3, is eligible for a partial rebate of the tax paid under § 10-35-19. The company shall apply for the rebate on forms prescribed by the secretary. The total amount of tax rebated shall be no more than fifty percent of the cost of the transmission lines and wind farm collector systems in South Dakota.~~

~~—The maximum rebate any company may receive in one year is ninety percent of the tax paid under § 10-35-19 for the first five years and fifty percent of the tax paid under § 10-35-19 for the next five years. The secretary shall determine when the wind farm is commercially operational. No~~

~~wind farm may receive a rebate under this section after this ten year period.~~

~~—The secretary shall rebate the tax from the wind energy tax fund prior to the distribution of any money as provided in § 10-35-21. The secretary may provide a tax credit, in lieu of full payment of the gross receipts tax, of up to eighty percent of the transmission rebate value that has been approved by the secretary. Any revenue in the wind energy tax fund after the rebates are paid shall be deposited in the property tax reduction fund.~~

Section 5. This Act is effective on April 1, 2015. For wind farms that produced electricity before April 1, 2015, one-fourth of the electricity that was produced in calendar year 2015 shall be taxed and treated pursuant to the provisions in place prior to April 1, 2015, and three-fourths of the electricity that was produced in calendar year 2015 shall be taxed and treated pursuant to the provisions of this Act.

Section 6. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval."

Moved by: Willadsen
Second by: Kirschman
Action: Prevailed by voice vote.

MOTION: DO PASS SB 180 AS AMENDED

Moved by: Duvall
Second by: Wiik
Action: Prevailed by voice vote.

MOTION: AMEND TITLE OF SB 180

180fta

On page 1, line 2, of the Senate Commerce and Energy Committee engrossed bill, after "facilities" insert "and to declare an emergency".

Moved by: Willadsen
Second by: Haggart (Don)
Action: Prevailed by voice vote.

MOTION: ADJOURN

Moved by: Duvall
Second by: Willadsen
Action: Prevailed by voice vote.

Pam Kean
Committee Secretary

Roger D. Solum, Chair